

## § 4.1002

*Ex parte communication* means an oral or written communication to the ALJ that is made without providing all parties reasonable notice and an opportunity to participate.

*Full intervenor* means a person granted leave by the ALJ to intervene as a full party under § 4.1021.

*Hearing process* means the process by which DCDH handles a case forwarded to OFA pursuant to 25 CFR 83.39(a), from receipt to issuance of a recommended decision as to whether the petitioner should be acknowledged as a federally recognized Indian tribe for purposes of federal law.

*OFA* means the Office of Federal Acknowledgment within the Office of the Assistant Secretary—Indian Affairs, Department of the Interior.

*Party* means the petitioner, OFA, or a full intervenor.

*Person* means an individual; a partnership, corporation, association, or other legal entity; an unincorporated organization; and any federal, state, tribal, county, district, territorial, or local government or agency.

*Petitioner* means an entity that has submitted a documented petition to OFA requesting Federal acknowledgment as a federally recognized Indian tribe under 25 CFR part 83 and has elected to have a hearing under 25 CFR 83.38.

*Representative* means a person who:

(1) Is authorized by a party to represent the party in a hearing process under this subpart; and

(2) Has filed an appearance under § 4.1010.

*Secretary* means the Secretary of the Interior or his or her designee.

*Senior Department employee* has the same meaning as the term “senior employee” in 5 CFR 2641.104.

### § 4.1002 What is the purpose of this subpart?

(a) The purpose of this subpart is to establish rules of practice and procedure for the hearing process available under 25 CFR 83.38(a)(1) and 83.39 to a petitioner for Federal acknowledgment that receives from OFA a negative proposed finding on Federal acknowledgment and elects to have a hearing before an ALJ. This subpart includes provisions governing prehearing con-

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ferences, discovery, motions, an evidentiary hearing, briefing, and issuance by the ALJ of a recommended decision on Federal acknowledgment for consideration by the Assistant Secretary—Indian Affairs (AS-IA).

(b) This subpart will be construed and applied to each hearing process to achieve a just and speedy determination, consistent with adequate consideration of the issues involved.

### § 4.1003 Which rules of procedure and practice apply?

(a) The rules which apply to the hearing process under this subpart are the provisions of §§ 4.1001 through 4.1051.

(b) Notwithstanding the provisions of § 4.20, the general rules in subpart B of this part, do not apply to the hearing process, except as provided in § 4.1017(a).

### § 4.1004 How are time periods computed?

(a) *General.* Time periods are computed as follows:

(1) The day of the act or event from which the period begins to run is not included.

(2) The last day of the period is included.

(i) If that day is a Saturday, Sunday, or other day on which the Federal government is closed for business, the period is extended to the next business day.

(ii) The last day of the period ends at 5 p.m. at the place where the filing or other action is due.

(3) If the period is less than 7 days, any Saturday, Sunday, or other day on which the Federal government is closed for business that falls within the period is not included.

(b) *Extensions of time.* (1) No extension of time can be granted to file a motion for intervention under § 4.1021.

(2) An extension of time to file any other document under this subpart may be granted only upon a showing of good cause.

(i) To request an extension of time, a party must file a motion under § 4.1018 stating how much additional time is needed and the reasons for the request.

(ii) The party must file the motion before the applicable time period expires, unless the party demonstrates

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extraordinary circumstances that justify a delay in filing.

(iii) The ALJ may grant the extension only if:

(A) It would not unduly prejudice other parties; and

(B) It would not delay the recommended decision under § 4.1051.

### REPRESENTATIVES

#### § 4.1010 Who may represent a party, and what requirements apply to a representative?

(a) *Individuals.* A party who is an individual may either act as his or her own representative in the hearing process under this subpart or authorize an attorney to act as his or her representative.

(b) *Organizations.* A party that is an organization or other entity may authorize one of the following to act as its representative:

(1) An attorney;

(2) A partner, if the entity is a partnership;

(3) An officer or full-time employee, if the entity is a corporation, association, or unincorporated organization;

(4) A receiver, administrator, executor, or similar fiduciary, if the entity is a receivership, trust, or estate; or

(5) An elected or appointed official or an employee, if the entity is a federal, state, tribal, county, district, territorial, or local government or component.

(c) *OFA.* OFA's representative will be an attorney from the Office of the Solicitor.

(d) *Appearance.* A representative must file a notice of appearance. The notice must:

(1) Meet the form and content requirements for documents under § 4.1011;

(2) Include the name and address of the person on whose behalf the appearance is made;

(3) If the representative is an attorney (except for an attorney with the Office of the Solicitor), include a statement that he or she is a member in good standing of the bar of the highest court of a state, the District of Columbia, or any territory or commonwealth of the United States (identifying which one); and

(4) If the representative is not an attorney, include a statement explaining his or her authority to represent the entity.

(e) *Disqualification.* The ALJ may disqualify any representative for misconduct or other good cause.

### DOCUMENT FILING AND SERVICE

#### § 4.1011 What are the form and content requirements for documents under this subpart?

(a) *Form.* Each document filed in a case under this subpart must:

(1) Measure 8-1/2 by 11 inches, except that a table, chart, diagram, or other attachment may be larger if folded to 8-1/2 by 11 inches and attached to the document;

(2) Be printed on just one side of the page;

(3) Be clearly typewritten, printed, or otherwise reproduced by a process that yields legible and permanent copies;

(4) Use 12-point font size or larger;

(5) Be double-spaced except for footnotes and long quotations, which may be single-spaced;

(6) Have margins of at least 1 inch; and

(7) Be bound on the left side, if bound.

(b) *Caption.* Each document must begin with a caption that includes:

(1) The name of the case under this subpart and the docket number, if one has been assigned;

(2) The name and docket number of the proceeding to which the case under this subpart relates; and

(3) A descriptive title for the document, indicating the party for whom it is filed and the nature of the document.

(c) *Signature.* The original of each document must be signed by the representative of the person for whom the document is filed. The signature constitutes a certification by the representative that:

(1) He or she has read the document;

(2) The statements in the document are true to the best of his or her knowledge, information, and belief; and

(3) The document is not being filed for the purpose of causing delay.

(d) *Contact information.* Below the representative's signature, the document must provide the representative's name, mailing address, street address